

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

United States of America,)	
)	Cr. No. 1:10-466
vs.)	
)	
Johnnie Hamilton,)	ORDER
)	
Defendant.)	
_____)	

On December 21, 2010, Defendant Johnnie Hamilton pleaded guilty to conspiracy to possess with intent to distribute and to distribute five grams or more of cocaine base, in violation of 21 U.S.C. § 846. Defendant was sentenced on April 21, 2011 to 120 months incarceration. Judgment was entered on April 22, 2011.

On January 8, 2013, Defendant filed a motion to vacate sentence pursuant to 28 U.S.C. § 2255 or, in the alternative to reduce his sentence pursuant to 18 U.S.C. § 3582(c) on the basis of the decision in Dorsey v. United States, 132 S. Ct. 2321 (2012). The government does not oppose the motion.

On January 29, 2013, the court notified Defendant that his motion would be construed as a motion for relief under 28 U.S.C. § 2255, and that he should notify the court by February 15, 2013 as to whether he wished to amend his motion to include other grounds for relief. On February 12, 2013, Defendant's counsel informed the court that Defendant did not wish to amend his motion to assert additional grounds for relief. ECF No. 1070.

Accordingly, the court construes Defendant's January 8, 2013 motion as a motion for relief under § 2255, and **grants** the motion. The judgment entered April 22, 2011, is **vacated**. The court will notice the parties of a date for resentencing. The Federal Public Defender is appointed to

represent Defendant for purposes of resentencing.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

February 15, 2013